

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ROY ROSS,

Plaintiff,

vs.

CITY OF TOPPENISH; and  
CITY OF TOPPENISH POLICE  
DEPARTMENT; and POLICE  
OFFICER ADAM DIAZ and  
"JANE DOE DIAZ," husband  
and wife, and their marital  
community; and POLICE  
OFFICER QUINLAN and "JANE  
DOE" QUINLAN, husband and  
and wife, and their marital  
community,

Defendants.

No. CV-01-3095-AAM

**FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

**THIS MATTER** came on for bench trial on April 19, 2005. Glen Prior, Esq., appeared as counsel for plaintiff. G. Scott Beyer, Esq., and Kirk A. Ehli, Esq., appeared as counsel for defendants Adam Diaz and Jared Quinlan.

Having heard the testimony of the witnesses called by the parties, examined the exhibits admitted into evidence, and considered the argument offered by counsel, the court, pursuant to Fed. R. Civ. P. 52(a), makes the following findings of fact and conclusions of law which are intended to memorialize those findings and conclusions made from the bench at the close of trial.

**FINDINGS OF FACT**

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2 1. Plaintiff was arrested by Toppenish Police Officers Diaz and Quinlan on  
3 October 15, 1999.

4 2. Plaintiff was combative and resisted arrest and handcuffing. Prior to the  
5 handcuffing, defendant Diaz delivered a knee strike to the plaintiff's torso in order to  
6 gain control of plaintiff and allow for handcuffing of the plaintiff.

7 3. Following the knee strike, the plaintiff was subdued and handcuffed by  
8 defendants Diaz and Quinlan, and by non-party Toppenish Police Officer, Aaron M.  
9 Wuitschick.

10 4. The handcuffing of the plaintiff did not occur until he was already on the  
11 ground and after he continued to resist arrest while prostrate on the ground.

12 5. Following his handcuffing, plaintiff was not picked up and slammed to the  
13 ground, nor was his face intentionally rubbed in the gravel.

14 6. The knee strike delivered to plaintiff prior to the handcuffing is the likely  
15 cause of injury to the plaintiff's ribs sustained during the arrest. The injuries suffered by  
16 plaintiff occurred prior to his handcuffing, while he was resisting arrest, and would have  
17 been much more serious had he been slammed to the ground and his face intentionally  
18 rubbed in gravel.

19 7. After he was subdued and handcuffed, the plaintiff was placed in a Toppenish  
20 Police Department vehicle and transported to the Toppenish Police Department.

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22 **CONCLUSION OF LAW**

23 Defendants Diaz and Quinlan did not use excessive force upon the plaintiff  
24 following his handcuffing and therefore, did not violate his Fourth Amendment rights.

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1           The District Executive shall enter judgment for defendants on plaintiff's 42  
2 U.S.C. §1983 claim. A copy of the judgment and these findings of fact and conclusions  
3 of law shall be forwarded to counsel.

4                   **DATED** this 21<sup>st</sup> of April, 2005.

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6                                   s/ Alan A. McDonald  
7                                   ALAN A. McDONALD  
8                                   Senior United States District Judge  
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